

SENATE BILL 1194

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 9, relative to authorizing the University of Tennessee to guaranty obligations of an entity formed pursuant to Title 49, Chapter 9, Part 14.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 9, is hereby amended by adding the following language as a new part:

49-9-1601. The purpose of this part is to authorize the university of Tennessee to guaranty obligations of an entity formed pursuant to part 14 of this chapter that are related to the acquisition, construction, equipping, and/or financing of a proton therapy center by such entity or an affiliate of such entity; provided that the principal amount of any indebtedness guarantied directly or indirectly shall not exceed ninety-eight million dollars (\$98,000,000). It is hereby found and determined that the acquisition, construction, equipping, and/or financing of a proton therapy center that is affiliated with the university through such an entity or its affiliate will support the mission of the university by offering research and training opportunities to its faculty and students, will provide access to health care opportunities in the state, which will benefit citizens of the state, and will support the economic growth of the state through the availability of advanced medical treatments and through research and development activities related to such treatments, including commercialization of research outcomes. Therefore, it is found and determined that the execution of any guaranty as authorized by this part fulfills an essential public purpose.

49-9-1602.

(a) Notwithstanding § 49-9-1406 or any other law to the contrary, the university of Tennessee, with the prior approval of the board of trustees of the university, is hereby authorized to guaranty obligations of an entity formed pursuant to part 14 of this chapter that are related to the acquisition, construction, equipping, and/or financing of a proton therapy center, as defined in subsection (b), provided that the principal amount of any indebtedness guarantied directly or indirectly shall not exceed ninety-eight million dollars (\$98,000,000). Such guaranty shall be in such form as is approved by the board of trustees.

(b) For purposes of this section, a proton therapy center shall mean a facility, or group of facilities, the primary purpose of which is to undertake medical treatment and research relating to the use of beams of protons to irradiate diseased tissue to treat cancer and other diseases.

(c) For purposes of this section, an obligation shall mean any contractual obligation of an entity to a third party, including a debt obligation or a guaranty of a debt obligation by such entity to a third party.

(d) In connection with the execution of any guaranty authorized by this section, the university is authorized to pledge, assign, or encumber appropriations to the university by the general assembly, including all or any portion of the revenues, fees, rentals, and other charges and moneys received or to be received by or for the benefit of the university. The university, with the prior approval of the board of trustees, is hereby authorized to deduct from amounts appropriated by the general assembly for the operation and maintenance of the university, any amount necessary to meet its obligations under a guaranty entered into pursuant to this part.

(e) The prior approval of the Tennessee state school bond authority shall be required in order for the university to execute a guaranty pursuant to this part. The university is hereby authorized to execute all instruments necessary or convenient to effectuate the purposes of this part, subject to the prior approval of such instruments by the Tennessee state school bond authority.

(f) The guaranty pursuant to this section shall be an obligation of the university, payable only in accordance with the guaranty, and shall not be an obligation, general, special or otherwise, or a debt of the state and shall not be enforceable against the state. Any guaranty entered into pursuant to this part shall be subordinate to any obligations under project financing agreements between the university and the Tennessee state school bond authority under title 49, chapter 3, part 12.

(g) Nothing contained in this part shall be construed to authorize the university to contract a debt on behalf of, or in any way to obligate the state, or to pledge, assign, or encumber in any way, or to permit the pledging, assigning, or encumbering in any way of revenue derived from the investment of the proceeds of the sale, and from the rental of such lands as have been set aside by legislative enactments of the United States, for the use and benefit of the university.

49-9-1603. Nothing contained in this part shall be deemed or construed to waive or abrogate in any way the sovereign immunity of the state, the university, or any officer or employee of the state or the university, or to deprive any officer or employee of the state or university of any other immunity to which the officer or employee is otherwise entitled under state law. Any claim for

breach of a guaranty entered into pursuant to the terms of this part must be brought in the Tennessee claims commission as provided in title 9, chapter 8, part 3 and part 4.

49-9-1604. This part shall constitute full and complete authority, without regard to any other law, for the doing of the acts and things authorized in this part and shall be liberally construed to effect the purpose of this part. Insofar as this part is inconsistent with any other law, general, specific or local, this part shall be controlling.

SECTION 2. Tennessee Code Annotated Section 49-9-1406, is amended by deleting the language "Debts, liabilities and other obligations of an entity" and by substituting instead the language "Except as provided in part 16 of this chapter, debts, liabilities, and other obligations of an entity".

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions of the act or the application thereof which can be upheld without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect on becoming law, the public welfare requiring it.